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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

GENERAL MEDIA COMMUNICATIONS, )  
INC. )

Plaintiff, )

vs. )

BT CALIFORNIA, LLC, )  
BSC MANAGEMENT, )  
S.A.W. ENTERTAINMENT LTD. and )  
JOSEPH CAROUBA )

Defendants. )

Case No. C 04 0463-EDL  
Magistrate Judge Elizabeth D. Laporte

**CONSENT PERMANENT INJUNCTION  
AND MONETARY JUDGMENT**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3

4 GENERAL MEDIA COMMUNICATIONS, )  
INC. )

5 Plaintiff, )

6 vs. )

7 BT CALIFORNIA, LLC, )  
8 BSC MANAGEMENT, )  
9 S.A.W. ENTERTAINMENT LTD. and )  
JOSEPH CAROUBA )

10 Defendants. )  
11

Case No. C 04 0463-EDL  
Magistrate Judge Elizabeth D. Laporte

**CONSENT PERMANENT INJUNCTION  
AND MONETARY JUDGMENT**

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16 This matter having come before the Court, counsel for all parties being present on June 8,  
17 2004, and having advised the Court that they have reached agreement on the terms of a permanent  
18 injunction and a monetary judgment,  
19

20 IT IS HEREBY ORDERED, ADJUDICATED, AND DECREED THAT:

21 1. The parties stipulate that this Court has jurisdiction over all of the parties, and over the  
22 subject matter of this action.

23 2. The parties hereby stipulate that the following United States Trademark and Service  
24 Mark Registrations are valid and subsisting and are owned by Plaintiff General Media  
25 Communications, Inc. ("General Media") for use in combination with the following goods and  
26 services:  
27  
28

**KMZ Rosenman**  
**KATTEN MUCHIN ZAVIS ROSENMAN**  
 2020 Century Park East, Suite 2000  
 Los Angeles, CA 90067-3012  
 310.788.4400 office 310.788.4471 fax

Registration No.	Trademark	Goods and Services
2,810,417	THE PENTHOUSE CLUB	Restaurant, night club, and bar services, entertainment services, namely, live dance performances, model searches and special appearances
2,738,557	PENTHOUSE	Cigars
2,701,927	THE GIRLS OF PENTHOUSE	Periodicals
2,686,386	PENTHOUSE	Sexual aids
2,450,888	PENTHOUSE MEN'S CLUB	Restaurant, night club, and bar services, entertainment services, namely, live dance performances, model searches and special appearances
2,441,085	PENTHOUSE.COM	On-line magazine
2,435,702	PENTHOUSE	Candles and gels used as personal lubricants
2,386,351	PENTHOUSE	Playing cards
2,337,421	PENTHOUSEMAG.COM	On-line magazine
2,243,111	PENTHOUSE COMIX	Computer services providing access to a wide range of information
2,190,434	PENTHOUSE EROTICA	Quarterly adult magazine
2,078,769	PENTHOUSE	On-line magazine
1,963,425	PENTHOUSE COMIX	Comic books featuring adult themes
1,960,448	PENTHOUSE MEN'S ADVENTURE COMIX	Comic books featuring adult themes

Registration No.	Trademark	Goods and Services
1,862,414	PENTHOUSE	Condoms
1,515,321	PENTHOUSE	Wristwatches and clocks
1,430,050	PENTHOUSE	Prerecorded video tapes
1,367,554	PENTHOUSE LETTERS	Adult entertainment magazines
1,289,736	PENTHOUSE PETS	Air fresheners
1,282,978	PENTHOUSE	Air fresheners
1,074,534	PENTHOUSE	Calendars
1,064,636	PENTHOUSE	Promoting the goods and services of others through advertising
1,020,498	PENTHOUSE FORUM	Magazines
880,922	PENTHOUSE	Magazines

The foregoing trademarks and service mark registrations are hereinafter individually and collectively referred to as the “PENTHOUSE Marks.”

3. Defendants, including without limitation, any and all principals, partners, agents, servants, officers, directors, employees, successors, assigns, parents, subsidiaries, affiliates, divisions, related companies or entities, and licensees of Defendants, and any and all persons acting for Defendants, under them, on their behalf, or in concert or participation with them, are hereby permanently enjoined and restrained from:

(i) conducting any business using trademarks, trade names, service marks, or Internet domain names comprising in whole or in part the term “Penthouse,” or any word, phrase, term, mark, or name that is confusingly similar to any of the PENTHOUSE Marks;

(ii) selling, offering for sale, holding for sale, advertising, or promoting any goods or services using trademarks, trade names, service marks, or Internet domain names comprising in whole or in part the term “Penthouse,” or any word, phrase, term, mark, or name that is confusingly similar to any of the PENTHOUSE Marks;

(iii) filing or in any way prosecuting an application for federal or state trademark, service mark, or trade name registration for any mark or name comprising in whole or in part the term “Penthouse,” or any word, phrase, term, mark, or name that is confusingly similar to any of the PENTHOUSE Marks;

(iv) acquiring, owning, or using any Internet domain name comprising in whole or in part the term “Penthouse,” or otherwise incorporating any word, phrase, term, mark, or name that is confusingly similar to any of the PENTHOUSE Marks;

(v) representing or implying in anyway that any of Defendants’ goods, services, or businesses are associated with, sponsored by, approved by, distributed by, or in any way legitimately connected with General Media and/or any of the PENTHOUSE Marks;

(vi) engaging in any other act or thing that is reasonably likely to induce the belief that Defendants’ goods, services, and/or businesses are in any way connected with General Media, or that is likely to diminish in any way the distinctiveness of any of the PENTHOUSE Marks.

4. To the extent they have not previously done so, Defendants are further ordered to deliver to General Media, on or before June 21, 2004, any and all stationery, circulars, catalogs, charts, brochures, advertising material, labels, packages, signs, and all other material in their possession, custody, or control that contain the term “Penthouse,” or that contain any other terms, marks, or names confusingly similar to any of the PENTHOUSE Marks.

5. To the extent they have not previously done so, Defendants are further ordered to transfer to General Media, on or before June 21, 2004, all Internet domain names that contain or comprise in

1 whole or in part the term "Penthouse," or that otherwise incorporate any terms, marks, or names  
 2 confusingly similar to any of the PENTHOUSE Marks, including but not limited to  
 3 "thepenthousesf.com" and "thepenthousesf.net."

4  
 5 6. To the extent they have not previously done so, Defendants are further ordered to cancel,  
 6 on or before June 21, 2004, any and all advertising and promotion, including but not limited to  
 7 telephone book advertising in both the White and Yellow Pages, that use in whole or in part the term  
 8 "Penthouse," or any other word, phrase, term, mark, or name that is confusingly similar to any of the  
 9 PENTHOUSE Marks, and to provide reasonable confirmation to General Media of cancellation of  
 10 all such advertising.

11  
 12 7. Defendants are further ordered to pay to General Media damages and attorneys' fees  
 13 totaling \$100,000 by August 6, 2004, which obligation shall be considered paid in full if and only if  
 14 the following payments are timely made by cashiers or certified check, and received by counsel for  
 15 General Media as follows:

- 16 (a) \$10,000, received by counsel for General Media on or before June 21, 2004  
 17 (the timely payment of which \$10,000 is hereby acknowledged by General  
 18 Media); and  
 19 (b) an additional \$60,000, received by counsel for General Media on or before  
 20 August 4, 2004.

21  
 22 Defendants are jointly and severally responsible for the monetary obligation set forth in this  
 23 paragraph.

24 8. Upon payment of the sums stated in paragraph 7 above, all other claims are merged into  
 25 this judgments and the lawsuit is dismissed subject to the conditions of the permanent injunction.  
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1 9. Violation of this Order by Defendants shall entitle General Media to an award of its  
2 attorneys' fees and costs necessary to enforce the Order, together with such additional damages and  
3 remedies as this Court deems just and equitable.

4  
5 **IT IS SO ORDERED, *nunc pro tunc* to June 8, 2004.**

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7  
8 Dated: \_\_\_\_\_

Honorable Elizabeth D. Laporte  
United States Magistrate Judge  
United States District Court  
Northern District of California  
San Francisco Division

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12  
13 Approved as to form:

14  
15 \_\_\_\_\_  
/s/

16 Edi Thomas  
Attorney for all Defendants

17  
18 \_\_\_\_\_  
/s/

19 Daniel Price  
Attorney for Plaintiff

20  
21 *Filer's Attestation: Pursuant to*  
22 *General Order No. 45, Section X.B*  
23 *regarding signatures, Daniel R. Price*  
24 *hereby attests that concurrence in the*  
25 *filing of this document has been obtained.*  
26  
27  
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